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EXAMINER

VERBITSKY, GAIL KAPLAN

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 05/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/674,600

Applicant(s)

Camenzind et al.

Examiner

Gail Verbitsky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on Apr 15, 2002

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-23 is/are pending in the application

4a) Of the above, claim(s) _____ is/are withdrawn from consideration

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-23 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirements

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☒ All b) ☐ Some* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____

3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5(1pg)

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

19) ☐ Notice of Informal Patent Application (PTO-152)

20) ☐ Other:

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DETAILED ACTION

Restriction / Election

1. Applicant's response (Paper # 6) to restriction/ election requirement stated in the Office Action (Paper # 5) is hereby acknowledged. Since applicant amended claim 17 (Invention of Group II) in the form dependent on claim 1 (Invention of Group I), in the rejection of the merit in the present Office Action, Examiner considers claims 1-23.

Priority

2. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d).

Specification

3. A) The specification has not been checked to the extent necessary to determine the presence of all possible errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

B) This application does not contain an abstract of the disclosure as required by 37 CFR 1.72(b). An abstract on a separate sheet is required.

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Drawings

4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “the ELT”, “Access-Control-Circuit” must be shown or the feature(s) canceled from the claim(s) 22-23. No new matter should be entered.

Claim Objections

5. Claims 2-4, 7, 9-19, 22-23 are objected to because of the following informalities:

Claim 2: A) Perhaps applicant should replace “as well as” in line 7 with --and--,

B) “a” before second occurrence of “entering” in line 3 should be deleted,

C) “a electrical signal” in lines 4-5 should be replaced with --an electrical signal--,

D) “the corresponding unit” in lines 8-9 lacks antecedent basis,

Claim 3: A) Perhaps applicant should replace “medium” in line 2 with --means--,

B) Perhaps applicant should replace “measuring” in line 3 with --measured--,

Claim 4: “a altitude” in line 2 should be replaced with --an altitude--,

Claim 7: A) “the time display” in lines 2-3 lacks antecedent basis,

B) Perhaps applicant should add --for displaying-- after “for” in line 3,

Claim 9: “the pocket knife” in line 2 lacks antecedent basis,

Claim 10: A) “the tip” in line 2 lacks antecedent basis,

B) “a” before “grilling” should be deleted,

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Claim 11: “the menu” in line 2 lacks antecedent basis,

Claim 12: “the power” in line 1 lacks antecedent basis,

Claim 13: Perhaps “a interface” in line 1 should be replaced with --an interface *circuit*--,

Claim 14: A) “the transmission” in lines 1-2 lacks antecedent basis,

B) “the data transfer” in lines 2-3 lacks antecedent basis,

Claim 16: A) Perhaps applicant should replaced “integral” in line 3 with --integrally--,

B) “the electronics” in line 2 lacks antecedent basis,

Claim 17: “a integral” in line 2 should be replaced with --an integral--,

Claim 18: A) “the transmission” in lines 3-4 should be replaced with --transmission--,

B) “the exchange” in line 4 should be replaced with --exchange--,

Claim 19: “the transmission means” in line 1 lacks antecedent basis,

Claim 22: “a sending” in line 2 should be replaced with --sensing--,

Claim 23: “a access” in line 1 should be replaced with --an access--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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7. Claims 1-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In this case,

Claim 1: A) “or” in line 3 makes the claim language confusing because it is not clear what applicant claims, “at least one” or “several” measuring, entering and display devices,

B) It is not clear how it is possible to “select the desired display among the various physical measure values”,

C) the claim language is confusing because it is not clear if “measuring, entering and display device” is a measuring device comprising a measuring means, entering means and a display means. Is this a proper interpretation of the invention? Appropriate clarification is required.

Claim 2: “measuring sensor” in line 2 makes the claim language confusing because it is not clear what applicant means,

Claims 1-23: A) “foreseen” throughout the claims makes the claim language confusing because it is not clear what applicant means,

B) “so called”, “possibly”, “preferably”: these terms make the claim language confusing because it is not clear what applicant actually claims,

E) “and/ or”: the use of “and/or” throughout the claims make the claim language confusing because it is not clear what applicant actually claims. Furthermore, applicant is reminded that “or” should only be used with alternate terms, e.g., rod or bars, etc.

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Claim 4: the claim language is confusing because it is not clear if applicant claims one of “an altitude measuring device, compass, barometer”, etc. or all of them located within the same casing. Furthermore, please note that in the rejection on the merit of claim 4, Examiner considers all of them located within the same casing.

Claim 10: the claim language is confusing because “ how the roasting or cooking process has advanced” in last line render the claim indefinite,

Claim 11: it is not clear how “a pressure sensor” “operating the menu device”?

Claim 12: it is not clear how the display device “proceeds”?

Claim 13: “transmit data from the *same*” in line 3 makes the claim language confusing because it is not clear what applicant means,

Claims 13-14: “an interface” makes the claim language confusing because it is not clear what structures the interface is connecting. Does applicant mean a remote device?

Claim 14: A) “such as” and “etc.”: A) the phrase “such as” renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

B) second occurrence of “wireless” in line 3 makes the claim language confusing because applicant has already claimed “wireless data transfer” in the same line,

C) the phrase “such as/ etc.” renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 15: A) Perhaps applicant should insert --one of-- before “ a snap on” in line 2,

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B) Perhaps applicant should replace "a snap on" with --snapping on--, "screwed" and "plugged" with --screwing-- and --plugging-- respectively, and "clamped connection" with --clamping-- in order to maintain consistency ,

C) "e.g.": Regarding claim, the phrase "for example/ e.g." renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

D) the claim language is confusing because it is not clear is applicant claims one of snapping, screwing, plugging, etc. or all of them at the same time. Furthermore, please note that in her rejection on the merit, Examiner considers only one means listed in lines 2-3 of claim 15.
Claim 16: "such as", "e.g.": Regarding claim, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim, the phrase "for example/ e.g." renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 17: Claim language is confusing because it is not clear what structural relationships are between "one casing" and "an integrally releasable cover",

Claim 20: Perhaps applicant should replace "pressure" in line 2 with --a measured pressure-- in order to clearly describe the invention,

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Claim 21: A) “such as” and “similar”: Regarding claim, the phrase “such as” renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

B) Regarding claim, the phrase “or the like/ similar” renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by “or the like”), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

C) the claim language is confusing because it is not clear if applicant claims “pliers, a clamp, a knife and similar” at the same time or one of “pliers, a claim, a knife”, etc.

Furthermore, please note that in her rejection on the merit, Examiner considers only one “multifunctional hand tool” claimed in lines 1-2 of claim 21.

Claim 22 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: it is not clear where the ELT is arranged and how it structurally related to the device/ tool.

Claim 23: the claim language is confusing because it is not clear from the claim and the specification what particular structure applicant intends to claim?

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8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 1-3, 5-8, 12-13, 15-19, 21-22 (as best understood by the examiner) are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaub (U.S. 4854045).

Schaub discloses in Figs. 1-2 a device comprising at least two covers (modules) connected by connecting means (mechanical and electronic) 8,11, 31,35 and (pins) 36, 46, measuring devices (watch) to measure various physical values, an entering device (calculator), a tool 92 releasably arranged by snapping in and out, an LCD display 70, a memory module (storing means) to store measured data, an emergency transmitter module (sending member), batteries, entry keys (menu device) 22. Schaub states that the number of modules can be expanded depending on the number of measuring devices contained in the modules. Schaub does not explicitly describe a microprocessor and a converter, however, it is very well known in the art, that an electronic calculator comprises a converter and a microprocessor. Inherently, the device comprises an interface in order to transmit an emergency signal to a receiving remote device.

With respect to “whereby”: It has been held that the functional “whereby” statement does not define any structure and accordingly can not serve to distinguish. *In re Mason*, 114 USPQ 127, 44 CCPA 937 (1957).

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10. Claims 4, 11 (as best understood by the Examiner) are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaub as applied to claims 1-3, 5-8, 12-13, 15-19, 21-22 above in view of Vinci (U.S. 5875413).

Schaub discloses a device as stated above in paragraph 9.

Schaub does not disclose the limitations of claims 4 and 11.

Vinci discloses in Fig. 1 a device comprising a temperature sensor (feeler), a pressure sensor, an altitude sensor, a transmission cable connecting the device to a sensing probe.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add different sensors (temperature sensor, pressure sensor, altitude sensor) to the device disclosed by Schaub, so as to have a plurality of different sensors, as taught by Vinci, in order to allow the user to use the device for different measuring purposes.

It would have also been obvious to one of ordinary skill in the art at the time the invention was made to add a transmission line, as taught by Vinci, to the device disclosed by Schaub, so as to allow the user not only to obtain different measuring data but also transmit it for further evaluation and actual use.

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11. Claims 9 and 20 (as best understood by the Examiner) are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaub and Vinci as applied to claims 1-3, 5-8, 12-13, 15-19, 21-22 and 4, 11 above and in view of Myer (U.S. 4414985).

Schaub and Vinci discloses a device as stated above in paragraph 10.

They do not explicitly disclose a weighting cell arranged with a pressure sensor.

Myer discloses a dynamometer (weighting cell/ pressure/ force measuring device) 12 comprising a sensing arm (weighting sensor) 14 which can pivotally move along an arc 16 relative to a housing (pulled or swung out).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify a pressure sensor, disclosed by Schaub and Vinci, so as to have the sensor pulled/ swung out the housing so as to use it at a desired angle, as taught by Myer, and to pull it out when stored/ not in use in order to avoid its damaging.

It would have also been obvious to one of ordinary skill in the art at the time the invention was made to add a weighing cell/ dynamometer to the device disclosed by Schaub and Vinci, as taught by Myer, so as to have a device and display responding to the pressure measured by the sensor in order to allow the user to see and evaluate the data.

12. Claim 14 (as best understood by the Examiner) rejected under 35 U.S.C. 103(a) as being unpatentable over Schaub and Vinci as applied to claims 1-3, 5-8, 12-13, 15-19, 21-22 and 4, 11 above in view Yamaguchi et al. (U.S. 4340796) [hereinafter Yamaguchi].

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Schaub and Vinci disclose a device as stated above in paragraph 10.

They do not explicitly disclose a wireless communication.

Yamaguchi discloses a wireless communication between the temperature sensor (feeler/sensing device) and a microprocessor (evaluating remote device/ interface).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to add a wireless communication between the sensing device and an interface, as taught by Yamaguchi, to the device disclosed by Schaub and Vinci, so as to eliminate a bulky transmission cable when the signal should be transmitted to a remote device.

14. Claim 10 (as best understood by the Examiner) rejected under 35 U.S.C. 103(a) as being unpatentable over Schaub as applied to claims 1-3, 5-8, 12-13, 15-19, 21-22 above in view Tymkewicz et al. (6000845) [hereinafter Tymkewicz].

Schaub discloses a device as stated above in paragraph 9.

Schaub does not disclose the limitation of claim 10.

Tymkewicz discloses in Fig. 1 a tip/awl/pointing end (temperature feeler) 16 to contact the meat to measure its temperature during cooking (roasting, grilling, etc.).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the temperature sensor disclosed by Schaub with the temperature sensor, as taught by Tymkewicz, in order to have a portable temperature sensing device to allow the user to assess the temperature of the meat being cooked when camping.

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Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited in the PTO-892 and not mentioned above disclose related devices.

16. *It is not possible to apply the prior art of record to claim 23 due to the confusing claim language as stated above in paragraph 7.*

17. Any inquiry concerning this communication should be directed to Examiner Verbitsky who can be reached at (703) 306-5473 Monday through Friday 7:30 to 4:00 ET.

Any inquiry of general nature should be directed to the Group Receptionist whose telephone number is (703) 308-0956.

GKV


Diego Gutierrez

May 02, 2002

Supervisory Patent Examiner, TC 2800